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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,153	10/29/2003	Andrew James Retsema	US20030321	9840

173 7590 08/23/2006

WHIRLPOOL PATENTS COMPANY - MD 0750
500 RENAISSANCE DRIVE - SUITE 102
ST. JOSEPH, MI 49085

EXAMINER

STINSON, FRANKIE L

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 08/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/698,153

Applicant(s)

RETSEMA

Examiner

FRANKIE L. STINSON

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/29/2003</u> . | 6) <input type="checkbox"/> Other: ____. |

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jordan (U. S. Pat. App. Pub. 2005/0076938) in view of either Nelson (U. S. Pat. No. 4,985,106) or Herreman et al.(U. S. Pat. No. 5,965,851).

Re claims 1 and 16, Jordan is cited disclosing a dishwasher comprising: a wash tub (17) comprising a rear wall, top wall, bottom wall, and side walls, with the walls collectively forming an open-faced wash chamber; a support frame having a front-facing opening intermediate a support frame upper portion (30, 31, 32) and a support frame lower portion (28), and the wash tub is mounted to the support frame such that the open-faced wash chamber is in communication with the front-facing opening, and a motor cavity (as at 28) with a front-facing motor cavity opening is defined intermediate the wash tub bottom wall and the support frame lower portion element; and substantially closing the motor cavity opening to attenuate the sound emanating from the motor cavity through the motor cavity opening that differs from the claims only in the recitation of the sound attenuator comprising one of a sound barrier element and a sound absorber. The patent to Nelson and Herreman are each cited disclosing the arrangement of providing a sound attenuator for a dishwasher with a sound barrier (48 in Nelson and 36 in Herreman) and sound a absorber (4a in Nelson and 34, 40 in Herreman). It therefore would have been obvious to one having ordinary skill in the art to substitute for the

sound attenuator means in Jordan, a sound attenuator as taught by either Nelson or Herreman, since this is consider to be a mere substitution of functional equivalents (see MPEP 2144.06 SUBSTITUTING EQUIVALENTS KNOWN FOR THE SAME PURPOSE). Re claims 2, 4, 5, 6 and 7, no patentable distinction is deemed to exist between the material and shapes as claimed and the material and shape as taught by Jordan, Herreman or Nelson. Re claim 3, Jordan discloses the barrier extending across the cavity as claimed (see paragraph 0027). Re claim 8, Jordan discloses the sound attenuator as claimed (paragraph 0027, line 6). Re claim 9, 18, 19, Nelson discloses the insulation curtain (fig. 7). To have the same overlap, is deemed to be an obvious extension of the teachings of Jordan. Re claims 10-15, 17, 20-24 no patentable is deemed to exist between the hinge and barrier, attachment means and access panel as claimed and the hinge and barrier, attachment means (VELCRO) and panel (kick-plate) as disclosed by Jordan.


3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In Ummel, Barnard et al., Saruta, Park, Nelson'213, Thompson et al., Tilton et al., Poole, Miura et al., Griffin et al. and UK'948, note the sound attenuating means.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANKIE L. STINSON whose telephone number is (571) 272-1308. The examiner can normally be reached on M-F from 5:30 am to 2:00 pm and some Saturdays from approximately 5:30 am to 11:30 am.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr, can be reached on (571) 272-1700. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

fls


FRANKIE L. STINSON
Primary Examiner
GROUP ART UNIT 1746